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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JERRYLINN KIRKLAND-
RODRIGUEZ and DAVID
ARCHORO VALENTIN,

Plaintiffs,

v.

COOPER UNIVERSITY HEALTH
CARE., et al.,

Defendants.

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: HONORABLE

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: Civil Action No.

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: **NOTICE OF REMOVAL**

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TO: Adam S. Malamut, Esquire
Keith J. Gentes, Esquire
Liebling Malamut, LLC
1939 Route 70 East, Suite 220
Cherry Hill, NJ 08003
Attorneys for Plaintiff

Carolyn Sleeper, Esquire
Parker McCay
9000 Midlantic Drive, Suite 300
Mount Laurel, NJ 08054

Attorney for Defendants Cooper University Hospital, The Cooper Health System d/b/a Cooper University Healthcare, Joseph V. Lombardi, M.D., Raymond H. Green, D.O., Kiavash Koko, M.D., and Anthony Colacino, M.D.

PLEASE TAKE NOTICE that this case, previously pending in the New Jersey Superior Court, Law Division, Camden County, Docket No. L-4192-15, is hereby removed to the United States District Court for the District of New Jersey, pursuant to 42 U.S.C. § 233(c). The United States of America is hereby substituted for removing Defendant Dr. Eytan R. Barnea, M.D. pursuant to 42 U.S.C. § 233(c) and (g), with respect to all of the claims set forth against him in the Complaint. The United States of America, by and through its undersigned attorneys, respectfully state the following in support of the removal of this matter:

1. The Complaint was filed in the New Jersey Superior Court, Law Division, Camden County, on or about November 4, 2015. See Exhibit A (State Court Docket). The trial has not yet occurred. See Docket, Ex. A. Service of process has not been effected upon the Defendant Barnea in the manner specified in and required under Fed. R. Civ. P. 4(i).
2. Plaintiff has filed this civil action seeking damages from Defendant Barnea for personal injuries she allegedly sustained as the direct and proximate result of Defendant Barnea's alleged negligence (i.e., medical malpractice). See Exhibit B (Complaint).
3. At all times relevant to this Complaint, Defendant Barnea was a deemed employee of the United States pursuant to 42 U.S.C. § 233(g). See Exhibit C (Declaration of Meredith Torres).

4. This action is deemed to be an action against the United States because Defendant Barnea was acting within the scope of his employment as an employee of the United States pursuant to 28 U.S.C. § 2679(d) and 42 U.S.C. § 233(c). See Exhibit D (Certification of Scope of Employment).
5. Sections 233(a) and (g) of Title 42 of the United States Code, as amended by the Federally Supported Health Centers Assistance Act of 1995 (Public Law 104-73) provide that the Federal Tort Claims Act (“FTCA”) is the exclusive remedy for tort claims against the United States.
6. The United States District Courts have exclusive jurisdiction over tort actions filed against the United States under the FTCA. 28 U.S.C. § 1346(b).
7. Counsel for Defendants Cooper University Hospital, The Cooper Health System d/b/a Cooper University Healthcare, Joseph V. Lombardi, M.D., Raymond H. Green, D.O., Kiavash Koko, M.D., and Anthony Colacino, M.D. has filed answers on behalf of those Defendants. See Exhibits E, F.
8. No counsel has yet entered an appearance on behalf of remaining Defendant Dhruv Rathod, M.D., and that defendant has not yet filed an answer, motion, or other response to Plaintiffs’ Complaint.
9. This Notice of Removal will be filed with the Clerk of the New Jersey Superior Court, Law Division, Camden County, and will be served on all parties in accordance with 28 U.S.C. § 1446(d). See Exhibit G (Letter to Clerk of New Jersey Superior Court).

PAUL J. FISHMAN
United States Attorney

s/Jessica R. O’Neill
By: JESSICA R. O’NEILL
Assistant U.S. Attorney

Dated: July 1, 2016